

17 MAR 2006

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In re Application of :
Pitt et al. :
Application No.: 10/537,276 : DECISION
PCT No.: PCT/GB02/02730 :
Int. Filing Date: 14 June 2002 : ON
Priority Date: 12 February 2002 :
Attorney Docket No.: 8830-338 US1 (209954) : PETITION
For: Method And Apparatus For Displaying :
Advertisements On A Vehicle :

This is in response to the renewed petition under 37 CFR 1.137(b) filed on 09 January 2005.

DISCUSSION

In a decision mailed on 23 November 2005, the petition under 37 CFR 1.137(b) filed on 27 May 2005 was dismissed without prejudice because

Regarding requirement (3), the petition itself does not include a statement of unintentional delay, but it is accompanied by a "Statement From Assignee In Support Of Petition For Revival Of Application" which is accompanied by an assignment document executed in favor of Agripa Limited by the inventors nominated in the international application. The "Statement..." has been signed by John Dunlop Pitt in the capacity of "CEO Agripa Limited." The "Statement..." indicates that "the entire delay in filing a national application related to the above international application from the date the national application was required to be filed until the date of filing of grantable petition under 37 CFR 1.137(b) was unintentional," but the assignment in favor of Agripa was not executed until 26 May 2005, over nine months after the date the application became abandoned. Since assignee Agripa had no interest in the application between the date of abandonment (midnight on 12 August 2004) and the date the assignment was executed (26 May 2005), assignee does not have standing to state that the "entire delay" was unintentional. As such, assignee's statement relating to unintentional delay is not sufficient to satisfy the requirements of 37 CFR 1.137(b).

The instant renewed petition is accompanied by a "Statement From Applicant's Attorney..." which states in part that

Based on the facts related to the filing of this application and the information that has been provided to me by representatives of the Applicants and the Assignee, the entire delay in filing a national application related to the above international

application from the date the national application was required to be filed until the date of filing of grantable petition under 37 CFR 1.137(b) was unintentional.

This is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

The decision mailed on 23 November 2005 also stated that

The declaration of the inventors is defective because the name of one of the inventors ("O'Neil") differs from the similar name ("O'Neill") of an inventor nominated by the published international application, and counsel has not adequately explained this discrepancy. Therefore, it is not clear if the declaration nominates the same inventive entity as does the published international application. Counsel is required to explain this discrepancy (e.g., whether it arose from a mere typographic error).

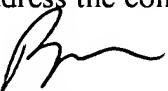
Since applicants have not resolved this issue, it would not be appropriate to accept the declaration of record at this time. In the event that the discrepancy arose from a mere typographic error, applicants are required to provide a statement to that effect. In the event that the discrepancy did NOT arise from a mere typographic error, either a new oath or declaration in compliance with 37 CFR 1.497(a) and (b) or else a petition under 37 CFR 1.182 is required.

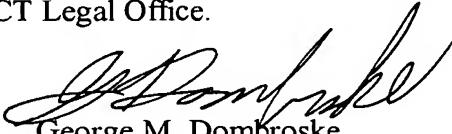
DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this application.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.


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